REMARKS

The present application stands with claims 1 and 5-7 rejected under 35 U.S.C. §102(e) as being anticipated by the cited Tang et al. (Tang) patent application. Claims 2, 8-11, and 17-20 have been rejected under 35 U.S.C. §103(a) as being obvious over Tang in view of the cited Bae et al. patent application, and claims 3-4, 12, 15, and 21-23 have also been rejected under 35 U.S.C. §103(a) as being obvious over Tang in view of the cited Kim et al. patent. The Examiner noted the allowability of claims 13-14, 16 and 24 if rewritten in independent form. Independent claims 1, 5 and 17 and dependent claim 18 have been cancelled and replaced by new independent claims 25 and 26. For the reasons below, these new independent claims and the claims dependent thereon are believed to be allowable over the cited prior art.

Tang discloses a closed-loop power control in a wireless communications network. As disclosed in Tang, the mobile terminal sends a series of preambles to the base station over a common reverse link channel (R-EACH). When the base station properly receives a preamble, the base station determines an appropriate modulation and coding scheme (MCS) at which the mobile station should transmit based on estimated current channel conditions. The base station-determined MCS is then sent downlink by the base station to the mobile terminal in an F-CACH message. After receiving its MSC assignment from the base station, the mobile terminal starts its data transmission on a different common reverse link channel, R-CCCH, using the data rate and modulation scheme determined from the received MSC assignment. In accordance with applicants' new independent claims, before

attempting to access the network by transmitting an access probe, the mobile terminal on its own selects a rate at which to transmit on a common reverse link channel from among the supported rates by comparing at least one self-measured channel related metric with at least one associated predetermined threshold level that has been determined before the access probe is transmitted. In different embodiments, that at least one threshold level is stored in the mobile terminal or is received from the base station before the access attempt is made. Thus, there is no closed-loop power control as in Tang since, in accordance with applicants' claims, the mobile terminal decides itself at which rate it is going to transmit using a information that it has on hand that includes a channel related metric that it itself has measured and a threshold level that it already has stored or was previously received from the base station.

Applicants' new claim 25 recites the measurement of a channel related metric "at a time prior to attempting to access the network by transmitting an access probe on a reverse common signaling channel", the comparison of the metric with a predetermined threshold that is determined "before the access probe is transmitted", and selection of a transmission rate from among the supportable rate based on the comparison. Applicants' claim 25 is thus clearly neither anticipated by nor obvious over Tang.

Similarly, new claim 26, which is directed to the sending of transmission levels to the mobile terminal for the mobile terminal to subsequently use in determining a transmission rate before it sends an access probe. The cited Bae reference, like Tang, discloses a feedback loop.

For the reasons already discussed, new claim 26 is not obvious over the combination of Tang and Bae.

Since the new independent claims 25 and 26 are believed to be allowable, the dependent claims should thus also be allowable.

For the reasons above, all the claims now appear to be allowable and passage to issue of the subject application is therefore respectfully requested. Should the Examiner feel that the present application is not yet in a condition for allowance and that a telephone or personal interview would be helpful, he is invited to contact applicants' undersigned attorney at 973 386 8252.

Respectfully submitted,

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